

National Boating Safety Advisory Council

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ARTICLE I AUTHORITY

As provided for in Title 46 United States Code, Section 13110, the Secretary of Homeland Security has established the National Boating Safety Advisory Council (NBSAC or the Council). The Council will operate in accordance with the provisions of the Federal Advisory Committee Act (FACA) (Title 5 United States Code, Annotated, Appendix 2).

ARTICLE II PURPOSE

NBSAC provides advice and recommendations to the Secretary, Department of Homeland Security (DHS) through the Commandant of the United States Coast Guard and the Director of Prevention Policy (CG-54) on matters relating to recreational boating safety.

NBSAC is responsible for specific assignments and may conduct studies, inquiries, workshops and fact finding in consultation with individuals and groups in the private sector and /or with state and local government jurisdictions.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

- Section 1. Composition. NBSAC is composed of 21 members who are appointed by and who serve at the pleasure of the Secretary of Homeland Security. Each member has particular expertise, knowledge, and experience regarding recreational boating safety. The membership of the Council consists of: (A) seven representatives of State officials responsible for State boating safety programs; (B) seven representatives of recreational vessel manufacturers and associated equipment manufacturers; and (C) seven representatives of national recreational boating organizations and from the general public, at least five of whom are representatives of national recreational boating organizations.
- Section 2. Appointment. Members of NBSAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.
- Section 3. Terms of Office. Each member holds office for a term of up to three years, and the terms of one-third of the membership expires each year. A member normally will not be appointed to more than two terms. A member may continue to serve, under the authority of the Commandant, until appointments have been made to fill expired terms. In the event the Council terminates, all appointments to the Council will terminate.
- Section 4. Certification of Non-Lobbyist Status. All members of NBSAC must annually self-certify whether they are registered lobbyists under the Lobbying Disclosure

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Act, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS), through the Director of Prevention Policy (CG-54), if they register as a lobbyist while serving on NBSAC. Members who register as a lobbyist after their appointment or re-appointment to NBSAC will be replaced. Members appointed to the NBSAC prior to June 18, 2010, who were registered as lobbyists prior to appointment are permitted to serve the remainder of their term of office. Candidates for appointment must self-certify whether they are registered lobbyists under the Lobbying Disclosure Act. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the Lobbying Disclosure Act.

Section 5. Security Clearances. NBSAC members are not required to hold a security clearance.

Section 6. Members' Responsibilities. Because the membership of NBSAC is constructed to balance as many aspects and viewpoints of the recreational boating community as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at NBSAC meetings. The Commandant of the Coast Guard will recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the Council.

Members of NSBAC may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings, or not participating in the Council's work;
- b. Registering as a lobbyist after appointment;
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this Council for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Council as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of NBSAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of NSBAC are advisors to the agency and have no authority to speak for the Council, the Coast Guard or for the Department outside the Council structure.
- d. Members may not testify before Congress in their capacity as a member of NBSAC. If requested to testify before Congress, members of the NBSAC:

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1. Cannot represent or speak for the NBSAC, DHS, the Coast Guard, any other agency, or the Administration in their testimony;
 2. Cannot provide information or comment on Council recommendations that are not yet publicly available;
 3. May state they are a member of the Council; and,
 4. May speak to their personal observations as to their service on the Council.
- e. If speaking outside the Council structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV OFFICIALS

Section 1. Chair and Vice Chair. The Director of Prevention Policy (CG-54) appoints one of the members of NBSAC as the Chair, and may appoint one of the members as Vice-Chair. The Vice-Chair will act as Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. The term of the office of the Chair and Vice-Chair will be determined by CG-54 and may be for up to the length of their membership appointment. Members may serve more than one term as either the Chair or Vice-Chair.

Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to NBSAC and is appointed by the Director of Prevention Policy (CG-54). In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the Council and its subcommittees;
- b. Approve agendas for Council and subcommittee meetings;
- c. Attend all meetings and subcommittee meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the Council when directed to do so by the Director of Prevention Policy (CG-54).

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the Council;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes of all meetings of the Council's deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the Council, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on Council activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Council's agent to collect, validate and pay all vouchers for pre-approved expenditures; and

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- i. Preparing and handling all reports, including the annual report as required by FACA.

ARTICLE V MEETING PROCEDURES

- Section 1. Meeting Schedule and Call of Meetings. NBSAC typically meets twice a year, once in the spring and once in the fall. Subcommittees may meet at anytime during the year if necessary to complete their duties. The DFO calls or approves the call of Council, subcommittee, work group and task force meetings, and must attend all such meetings. Council meetings are open to the public unless a determination is made by the appropriate DHS official in accordance with DHS policy and directives that the meeting should be closed in accordance with Title 5, United States Code.
- Section 2. Agenda. Prior to each meeting, a call for agenda items will be sent to all NSBAC members. After receiving the members' input, the agenda will be developed by the DFO in consultation with the Chair. The DFO approves the agenda for all Council and subcommittee meetings, distributes the agenda to members prior to the meeting, and publishes the agenda in the Federal Register as part of a notice of meeting.
- Section 3. Quorum. A quorum for NBSAC is the presence of fifty percent plus one of the appointed Council members. A quorum of the Council is required to vote on issues being addressed.
- Section 4. Voting Procedures. Items for a vote are brought before NBSAC through a motion, which must be seconded. Upon receiving a second, the Chair will allow time for discussion. Once the discussion is completed, the issue will be subject to a voice vote, either "yea", "nay" or "abstain". Should the results of the voice vote be unclear to the DFO, a roll call vote will be undertaken. All recommendations submitted to the agency must be voted on and will be in the form of a resolution recorded in the minutes of the meeting.
- Section 5. Minutes. The DFO will prepare the minutes of each meeting and distribute copies to each Council member. Minutes of open meetings are available to the public upon request. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the Council;

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- d. Copies of reports or other documents received, issued, or approved by the Council; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 6. Open Meetings. Unless otherwise determined in advance, all meetings of NBSAC will be open and announced to the public in a notice published in the Federal Register at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to NSBAC at any time. All materials provided to the Council will be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record. Requests by the public to speak or provide information at NSBAC meetings will be made in accordance with instructions provided in the notice of meeting published in the Federal Register at least 15 days in advance of the meeting.

Section 7. Closed Meetings. All or parts of meetings of NBSAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the Commandant of the Coast Guard issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the Government in the Sunshine Act (Sunshine Act). Where the DFO has determined in advance that discussions during a Council meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the Government in the Sunshine Act, will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chair will order such discussion to cease and will schedule it for a future meeting of the Council that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings can only be attended by DFO, Council members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

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ARTICLE VI EXPENSES AND REIMBURSEMENTS

The Office of Auxiliary and Boating Safety (CG-542) is responsible for providing financial and administrative support to NSBAC. All expenditures for NBSAC activities must be approved in advance by the DFO. NBSAC members may be reimbursed for travel and per diem expenses related to NSBAC activities, and all such expenses must be approved in advance by the DFO.

ARTICLE VII ADMINISTRATION

The Office of Auxiliary and Boating Safety (CG-542) will provide clerical and administrative support for NBSAC.

ARTICLE VIII SUBCOMMITTEES

The DFO may establish subcommittees for any purpose consistent with NSBAC's charter. Such subcommittees may not work independently of NBSAC and must present their work and advice to the NBSAC for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the NBSAC and may not report directly to the Federal government or any other entity. Subcommittee members are selected based on their willingness to serve and expertise on the subject matter to be considered, and do not have to be members of NBSAC. Subcommittee membership will be balanced between the three NBSAC membership categories. A subcommittee member's term expires when the member's appointment to NBSAC expires or when the DFO, in consultation with the Chair, determines that the subcommittee's work has been completed and dissolves the subcommittee.

ARTICLE IX RECORDKEEPING

The records of NBSAC, formally and informally established subcommittees or other subgroups of the Council, are maintained by the DFO and will be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records will be available for public inspection and copying, in accordance with the Freedom of Information Act (Title 5, United States Code, section 552). Applications for appointments are kept on file by the DFO for three years.

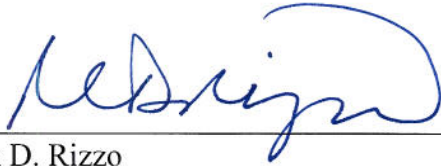
ARTICLE X RECOMMENDATIONS AND REPORTING

Reports and recommendations from NBSAC and its subcommittees, work groups and task forces will be reviewed and discussed during NBSAC meetings, voted on for acceptance by NBSAC and if accepted, forwarded to the Office of Auxiliary and Boating Safety (CG-542) for further consideration. The Office of Auxiliary and Boating Safety (CG-542) will keep a record of all NBSAC recommendations and reports and provide a report at each NBSAC meeting on the status of NSBAC recommendations.

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ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments will become effective immediately upon approval.



Mark D. Rizzo
Captain, U.S. Coast Guard
Designated Federal Officer

Date approved:

6 APR 2011